IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

FRIDAY, THE 10TH AUGUST 2007 / 19TH SRAVANA 1929

WP(C).No. 23513 of 2007(Y)

PETITIONER:

THE BALARAMAPURAM SERVICE CO-OPERATIVE BANK LTD NO. T.14, BALARAMAPURAM, TRIVANDRUM-695501, REPRESENTED BY ITS SECRETARY.

BY ADV. SRI.V.G.ARUN
SRI.T.R.HARIKUMAR

RESPONDENTS:
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1. KERALA STATE CO-OPERATIVE RUBBER MARKETING FEDERATION LIMITED, GANDHI NAGAR, KOCHI-20,REPRESENTED BY ITS MANAGING DIRECTOR.

2. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (GENERAL) ERNAKULAM.

R1 BY ADV. SRI.BABU KARUKAPADATH
R2 BY GOVERNMENT PLEADER (SMT. ANU SIVARAMAN)

SRI.JAGAN ABRAHAM M. GEORGE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 10/08/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. M. JOSEPH, J.

W.P.C. NO. 23513 OF 2007 Y

Dated this the 10th August, 2007

JUDGMENT

Petitioner is a Service Co-operative Bank, which has approached this Court with a prayer to direct the first respondent, Rubber Marketing Federation for return of the amount of Rs.5 Lakhs deposited by the petitioner, with interest, within a time frame and also to direct the second respondsent, Joint Registrar to cause an enquiry into the affairs of the first respondent Federation as provided under Sections 65 and 66 of the Kerala Co-operative Societies Act.

2. Case of the petitioner, in brief, is as follows:

The petitioner had deposited an amount of Rs.5 Lakhs as Fixed Deposit originally for one year, with the first respondent Federation, and the same was being renewed and redeposited periodically, the last renewal of which was for the period from 9.3.2005 to 9.5.2007. The Managing Committee of the petitioner Bank in the meeting held on 30.1.2007 decided to

close the FD Account and thereupon various letters were issued to the first respondent Federation for closure of the Account. But, the first respondent refused to close the FD Account and requested the petitioner to renew the same. It is stated that consequent on issuance of a lawyer notice, the first respondent Federation gave Rs.85,000/= being the interest for the last duration of the FD Account. But, the respondent Federation refused to return the FD till 7.5.2012 alleging that there was an understanding between the parties to that effect. It is also stated that the second respondent is duty bound to take appropriate action against the first respondent.

3. A Statement has been filed on behalf of the first respondent Corporation wherein Exts.R1 (a) and R1(b) Judgments are produced. It is stated in the Statement that the understanding between the parties was that the amount deposited was intended as a FD on a long term basis for which the respondent Federation will be paying interest at the relevant time. On this reasoning, the first respondent seeks to justify the

refusal to repay the amount. Learned counsel for the petitioner would point out that Ext.P7 is a communication issued by the first respondent to the petitioner requesting it to renew the Fixed Deposit in any of the Schemes mentioned therein and enclosing the FD renewal application.

4. Having regard to Exts.R1(a) and R1(b), I feel that I may not be justified in departing from the principle laid down in Ext. R1(a) which is the Judgment of the Division Bench. Section 69 of the Kerala Co-operative Societies Act contemplates disputes between the Co-operative Societies being decided thereunder. I feel that the parties should be relegated to the pursuit of the remedy under Section 69. I further order that in case the petitioner files Application under Section 69, the Authority will pass orders on the same in accordance with law, within a period of fortyfive days from the date on which it is entertained. Learned counsel for petitioner would submit that

the conduct of the first respondent is such as it attracts criminal liability. I leave open any other remedy which the petitioner has in law.

The Writ Petition is disposed of as above.

K. M. JOSEPH, JUDGE

kbk.